

SHB 2850 - H AMD 861

By Representative McIntire

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 84.34.070 and 1992 c 69 s 10 are each amended to read  
4 as follows:

5 (1)(a) When land has once been classified under ~~((this chapter))~~  
6 RCW 84.34.020 (1) or (3), or RCW 84.34.020(2) and does not meet the  
7 ownership requirements in (b) of this subsection, it shall remain under  
8 such classification and shall not be applied to other use except as  
9 provided by subsection (2) of this section for at least ten years from  
10 the date of classification and shall continue under such classification  
11 until and unless withdrawn from classification after notice of request  
12 for withdrawal shall be made by the owner. During any year after eight  
13 years of the initial ten-year classification period have elapsed,  
14 notice of request for withdrawal of all or a portion of the land may be  
15 given by the owner to the assessor or assessors of the county or  
16 counties in which such land is situated. In the event that a portion  
17 of a parcel is removed from classification, the remaining portion must  
18 meet the same requirements as did the entire parcel when such land was  
19 originally granted classification pursuant to this chapter unless the  
20 remaining parcel has different income criteria. Within seven days the  
21 assessor shall transmit one copy of such notice to the legislative body  
22 which originally approved the application. The assessor or assessors,  
23 as the case may be, shall, when two assessment years have elapsed  
24 following the date of receipt of such notice, withdraw such land from  
25 such classification ~~((and the land))~~.

26 (b)(i) Except as provided in (b)(ii) of this subsection, when land  
27 has once been classified under RCW 84.34.020(2), it shall remain under  
28 such classification and shall not be applied to other use except as  
29 provided by subsection (2) of this section for at least seven years  
30 from the date of classification and shall continue under such

1 classification until and unless withdrawn from classification after  
2 notice of request for withdrawal shall be made by the owner. During  
3 any year after seven years have elapsed, notice of request for  
4 withdrawal of all or a portion of the land may be given by the owner to  
5 the assessor or assessors of the county or counties in which such land  
6 is situated. In the event that a portion of a parcel is removed from  
7 classification, the remaining portion must meet the same requirements  
8 as did the entire parcel when such land was originally granted  
9 classification pursuant to this chapter unless the remaining parcel has  
10 different income criteria. Within seven days the assessor shall  
11 transmit one copy of such notice to the legislative body which  
12 originally approved the application. The assessor or assessors, as the  
13 case may be, shall, when two assessment years have elapsed following  
14 the date of receipt of such notice, withdraw such land from such  
15 classification.

16 (ii) For land that has been classified under RCW 84.34.020(2) for  
17 twenty or more years the assessor or assessors, as the case may be,  
18 shall withdraw and revalue the affected land with reference to its true  
19 and fair value on January 1st of the year specified in the notice of  
20 request for withdrawal from classification and the assessed valuation  
21 before and after the date of withdrawal of classification shall be  
22 listed and taxes shall be allocated according to that part of the year  
23 to which each assessed valuation applies.

24 (iii) To qualify for the preferential withdrawal requirements under  
25 this subsection (1)(b), at least a fifty percent ownership interest in  
26 the land must have been maintained by the owner or the owner's spouse  
27 for the entire period the land has been classified under RCW  
28 84.34.020(2).

29 (c) Land withdrawn from classification under this subsection shall  
30 be subject to the additional tax and applicable interest due under RCW  
31 84.34.108, except land withdrawn from classification under this  
32 subsection shall not be subject to applicable interest if the land  
33 meets the requirements of RCW 84.34.108(4)(b)(ii). Agreement to tax  
34 according to use shall not be considered to be a contract and can be  
35 abrogated at any time by the legislature in which event no additional  
36 tax or penalty shall be imposed.

37 (2) The following reclassifications are not considered withdrawals

1 or removals (~~and are not subject to additional tax under RCW~~  
2 ~~84.34.108~~)):

- 3 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);
- 4 (b) Reclassification of land classified under RCW 84.34.020 (2) or
- 5 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);
- 6 (c) Reclassification of land classified under RCW 84.34.020 (2) or
- 7 (3) to forest land classified under chapter 84.33 RCW; and
- 8 (d) Reclassification of land classified as open space land under
- 9 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land
- 10 under RCW 84.34.020(2) if the land had been previously classified as
- 11 farm and agricultural land under RCW 84.34.020(2).

12 (3) Applications for reclassification shall be subject to  
13 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and  
14 chapter 84.33 RCW.

15 (4) The income criteria for land classified under RCW 84.34.020(2)  
16 (b) and (c) may be deferred for land being reclassified from land  
17 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into  
18 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the  
19 date of reclassification.

20 **Sec. 2.** RCW 84.34.108 and 2003 c 170 s 6 are each amended to read  
21 as follows:

22 (1) When land has once been classified under this chapter, a  
23 notation of the classification shall be made each year upon the  
24 assessment and tax rolls and the land shall be valued pursuant to RCW  
25 84.34.060 or 84.34.065 until removal of all or a portion of the  
26 classification by the assessor upon occurrence of any of the following:

27 (a) Receipt of notice from the owner to remove all or a portion of  
28 the classification;

29 (b) Sale or transfer to an ownership, except a transfer that  
30 resulted from a default in loan payments made to or secured by a  
31 governmental agency that intends to or is required by law or regulation  
32 to resell the property for the same use as before, making all or a  
33 portion of the land exempt from ad valorem taxation;

34 (c) Sale or transfer of all or a portion of the land to a new  
35 owner, unless the new owner has signed a notice of classification  
36 continuance, except transfer to an owner who is an heir or devisee of  
37 a deceased owner shall not, by itself, result in removal of

1 classification. The notice of continuance shall be on a form prepared  
2 by the department. If the notice of continuance is not signed by the  
3 new owner and attached to the real estate excise tax affidavit, all  
4 additional taxes calculated pursuant to subsection (4) of this section  
5 shall become due and payable by the seller or transferor at time of  
6 sale. The auditor shall not accept an instrument of conveyance  
7 regarding classified land for filing or recording unless the new owner  
8 has signed the notice of continuance or the additional tax has been  
9 paid, as evidenced by the real estate excise tax stamp affixed thereto  
10 by the treasurer. The seller, transferor, or new owner may appeal the  
11 new assessed valuation calculated under subsection (4) of this section  
12 to the county board of equalization in accordance with the provisions  
13 of RCW 84.40.038. Jurisdiction is hereby conferred on the county board  
14 of equalization to hear these appeals;

15 (d) Determination by the assessor, after giving the owner written  
16 notice and an opportunity to be heard, that all or a portion of the  
17 land no longer meets the criteria for classification under this  
18 chapter. The criteria for classification pursuant to this chapter  
19 continue to apply after classification has been granted.

20 The granting authority, upon request of an assessor, shall provide  
21 reasonable assistance to the assessor in making a determination whether  
22 the land continues to meet the qualifications of RCW 84.34.020 (1) or  
23 (3). The assistance shall be provided within thirty days of receipt of  
24 the request.

25 (2) Land may not be removed from classification because of:

26 (a) The creation, sale, or transfer of forestry riparian easements  
27 under RCW 76.13.120; or

28 (b) The creation, sale, or transfer of a fee interest or a  
29 conservation easement for the riparian open space program under RCW  
30 76.09.040.

31 (3) Within thirty days after such removal of all or a portion of  
32 the land from current use classification, the assessor shall notify the  
33 owner in writing, setting forth the reasons for the removal. The  
34 seller, transferor, or owner may appeal the removal to the county board  
35 of equalization in accordance with the provisions of RCW 84.40.038.

36 (4) Unless the removal is reversed on appeal, the assessor shall  
37 revalue the affected land with reference to its true and fair value on  
38 January 1st of the year of removal from classification. Both the

1 assessed valuation before and after the removal of classification shall  
2 be listed and taxes shall be allocated according to that part of the  
3 year to which each assessed valuation applies. Except as provided in  
4 subsection (6) of this section, an additional tax, applicable interest,  
5 and penalty shall be imposed which shall be due and payable to the  
6 treasurer thirty days after the owner is notified of the amount of the  
7 additional tax. As soon as possible, the assessor shall compute the  
8 amount of additional tax, applicable interest, and penalty and the  
9 treasurer shall mail notice to the owner of the amount thereof and the  
10 date on which payment is due. The amount of the additional tax,  
11 applicable interest, and penalty shall be determined as follows:

12 (a) The amount of additional tax shall be equal to the difference  
13 between the property tax paid as "open space land", "farm and  
14 agricultural land", or "timber land" and the amount of property tax  
15 otherwise due and payable for the seven years last past had the land  
16 not been so classified;

17 (b)(i) The amount of applicable interest shall be equal to the  
18 interest upon the amounts of the additional tax paid (~~at the same~~  
19 ~~statutory rate charged on delinquent property taxes~~) from the dates on  
20 which the additional tax could have been paid without penalty if the  
21 land had been assessed at a value without regard to this chapter. The  
22 interest rate shall be determined as follows:

23 (A) The same statutory rate charged on delinquent property taxes  
24 for land classified under RCW 84.34.020 (1) and (3) and for land  
25 classified under RCW 84.34.020(2) not meeting the requirements of  
26 (b)(i)(B) or (C) of this subsection;

27 (B) An annual rate of eight percent for land classified under RCW  
28 84.34.020(2) if the land has been classified for seven years or more  
29 but less than twenty years and at least a fifty percent ownership  
30 interest in the land has been maintained by the owner or the owner's  
31 spouse for the entire period the land has been classified under RCW  
32 84.34.020(2); and

33 (C) An annual rate of five percent for land classified under RCW  
34 84.34.020(2) if the land has been classified under RCW 84.34.020(2) for  
35 twenty years or more and at least a fifty percent ownership interest in  
36 the land has been maintained by the owner or the owner's spouse for the  
37 entire period the land has been classified under RCW 84.34.020(2),  
38 except as provided in (b)(ii) of this subsection.

1        (ii) No interest shall be imposed for land classified under RCW  
2 84.34.020(2) if the land has been classified under RCW 84.34.020(2) for  
3 thirty years or more and at least a fifty percent ownership interest in  
4 the land has been maintained by the owner or the owner's spouse for the  
5 entire period the land has been classified under RCW 84.34.020(2);

6        (c) The amount of the penalty shall be as provided in RCW  
7 84.34.080. The penalty shall not be imposed if the removal satisfies  
8 the conditions of RCW 84.34.070.

9        (5) Additional tax, applicable interest, and penalty, shall become  
10 a lien on the land which shall attach at the time the land is removed  
11 from classification under this chapter and shall have priority to and  
12 shall be fully paid and satisfied before any recognizance, mortgage,  
13 judgment, debt, obligation or responsibility to or with which the land  
14 may become charged or liable. This lien may be foreclosed upon  
15 expiration of the same period after delinquency and in the same manner  
16 provided by law for foreclosure of liens for delinquent real property  
17 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any  
18 additional tax unpaid on its due date shall thereupon become  
19 delinquent. From the date of delinquency until paid, interest shall be  
20 charged at the same rate applied by law to delinquent ad valorem  
21 property taxes.

22        (6) The additional tax, applicable interest, and penalty specified  
23 in subsection (4) of this section shall not be imposed if the removal  
24 of classification pursuant to subsection (1) of this section resulted  
25 solely from:

26        (a) Transfer to a government entity in exchange for other land  
27 located within the state of Washington;

28        (b)(i) A taking through the exercise of the power of eminent  
29 domain, or (ii) sale or transfer to an entity having the power of  
30 eminent domain in anticipation of the exercise of such power, said  
31 entity having manifested its intent in writing or by other official  
32 action;

33        (c) A natural disaster such as a flood, windstorm, earthquake, or  
34 other such calamity rather than by virtue of the act of the landowner  
35 changing the use of the property;

36        (d) Official action by an agency of the state of Washington or by  
37 the county or city within which the land is located which disallows the  
38 present use of the land;

1 (e) Transfer of land to a church when the land would qualify for  
2 exemption pursuant to RCW 84.36.020;

3 (f) Acquisition of property interests by state agencies or agencies  
4 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
5 purposes enumerated in those sections. At such time as these property  
6 interests are not used for the purposes enumerated in RCW 84.34.210 and  
7 64.04.130 the additional tax specified in subsection (4) of this  
8 section shall be imposed;

9 (g) Removal of land classified as farm and agricultural land under  
10 RCW 84.34.020(2)(e);

11 (h) Removal of land from classification after enactment of a  
12 statutory exemption that qualifies the land for exemption and receipt  
13 of notice from the owner to remove the land from classification;

14 (i) The creation, sale, or transfer of forestry riparian easements  
15 under RCW 76.13.120;

16 (j) The creation, sale, or transfer of a fee interest or a  
17 conservation easement for the riparian open space program under RCW  
18 76.09.040;

19 (k) The sale or transfer of land within two years after the death  
20 of the owner of at least a fifty percent interest in the land if the  
21 land has been assessed and valued as classified forest land, designated  
22 as forest land under chapter 84.33 RCW, or classified under this  
23 chapter continuously since 1993. The date of death shown on a death  
24 certificate is the date used for the purposes of this subsection  
25 (6)(k); or

26 (l) The sale or transfer of land after the death of the owner of at  
27 least a fifty percent interest in the land if the land has been  
28 assessed and valued as classified forest land, designated as forest  
29 land under chapter 84.33 RCW, or classified under this chapter  
30 continuously since 1993 and the sale or transfer takes place after July  
31 22, 2001, and on or before July 22, 2003, and the death of the owner  
32 occurred after January 1, 1991. The date of death shown on a death  
33 certificate is the date used for the purpose of this subsection  
34 (6)(l)."

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